



Appeal Decision

Site visit made on 18 November 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2024

Appeal Ref: APP/E2001/W/24/3344934

Rosedene, Wood Lane, Howden, East Riding of Yorkshire, DN14 7LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr R Watson against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/00425/PLF.
 - The development proposed is 'erection of storage building following demolition of existing sub-standard redundant pig holding pens'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). As the proposed changes do not affect the main issues of this appeal, I have not sought the views of the main parties in coming to my decision.

Main Issues

3. The main issues are as follows:
 - The effect of the proposal on ecology;
 - Whether a safe and suitable access can be achieved for all users; and
 - Whether potential risks of flooding have been suitably assessed and can be mitigated.

Reasons

Ecology

4. The proposal seeks planning permission to remove a redundant animal pen and erect a building for the keeping of livestock and storage of materials. The building would be formed of blockwork and cladding with a pitched roof. A new access would be required with a track formed of hardcore leading from here to the proposed building location. The appeal site is located in the countryside adjacent Wood Lane.
5. The building proposed to be removed is evidently suitable for roosting bats. Based on the site's location and characteristics of the building proposed to be removed, I see no reason to disagree with this. Moreover, I understand that the site is located in close proximity to several Local Wildlife Sites, including a

pond some 40 metres (m) away. There are also priority coastal and wetland habitats nearby while the site lies in a potential risk zone for Great Crested Newts.

6. As such, the appeal site is clearly in a sensitive location with regards to ecology and biodiversity. I have had regard to the submitted Habitat Survey (Phase 1). This includes a general site description and some photographs but is otherwise lacking in detailed information. Regardless of the need for surveys in applications the agent has previously been involved with, given the potential bat roost and proximity to sensitive ecological networks, the evidence does not convince me the removal of the building and erection of a larger structure would not harm a legally protected species or that sufficient assessment and suitable mitigation would be provided.
7. My attention is drawn to a planning application¹ which was evidently approved for a similar proposal in the area closer to the same protected sites referenced by the Council. However, I have no information on this before me and as such I cannot be certain of the similarities or otherwise to the proposal.
8. The appellant mentions potential mitigation measures such as hedgerow planting and wild meadow planting. However, it is unclear as to how this would reduce the risk of harm to protected species or offsite biodiversity networks.
9. The proposal is therefore contrary to policy ENV4 of the East Riding Local Plan 2012 – 2029 Strategy Document (LP) (adopted April 2016) which states that where loss or harm to a National or Local designated site, as set out in Table 9, cannot be prevented or adequately mitigated, as a last resort, compensation for the loss/harm must be agreed. Development will be refused if loss or significant harm cannot be prevented, adequately mitigated against or compensated for. The proposal would also be contrary to paragraph 186 of the Framework, which advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Access

10. The existing access to the site from Wood Lane is formed of compacted ground with some hardcore which continues through the site towards the location of the proposed building. I understand that initial concerns of the Council's highways team were addressed in part, including impacts upon the culvert under the access point, electric charging points and lighting.
11. However, several other matters were not satisfactorily addressed prior to refusal of the application. These include vehicle types and frequency of visits, movements within the site including swept path analyses, parking and the access geometry, among other requirements.
12. There are very few substantive details before me to address any of these matters. The access to the caravan site adjacent is referenced by the appellant, although it is unclear as to how this addresses the outstanding design issues in the development proposal. Taken together, the design details before me are inadequate to ensure a safe and suitable access can be achieved.

¹ Application Reference: 22/00675/PLF

13. This would be contrary to policy ENV1 of the LP, which states that development should promote equality of safe access, movement and use. The proposal would also be contrary to the requirements of paragraph 114 of the Framework which advises that proposals should demonstrate that safe and suitable access to the site can be achieved for all users.

Flood Risk

14. The appeal site is located within Flood Zone 2. I note this is not disputed, and this evidently places the site at a medium risk of flooding. Footnote 59 attached to paragraph 173 of the Framework advises that a site-specific flood risk assessment (FRA) should be provided for all development in Flood Zones 2 and 3.
15. Planning Practice Guidance (PPG) sets forth the objectives of a site-specific FRA, which should establish whether a proposed development is likely to be affected by current or future flooding from any source; whether it will increase flood risk elsewhere; whether the measures proposed to deal with these effects and risks are appropriate; the evidence for the local planning authority to apply (if necessary) the Sequential Test, and; whether the development will be safe and pass the Exception Test, if applicable.
16. I note the Council advises that as the site is classified as a less vulnerable use, the sequential test is not required to be applied as the area of search would be limited to the site itself. However, the FRA includes little substantive information as to how the remaining requirements to protect the site and wider area from flooding would be met. The mitigating measures paragraph does not include any actual measures. Reference is made to an effective soak away, and text on the site plan shows surface water to discharge to a land drain, but there is no further information on any of this.
17. Taken together there is insufficient information before me to demonstrate that the risk of flooding can be avoided or mitigated. This would be contrary to policies ENV6 and A4 of the LP which seek, among other things, to ensure that environmental hazards, such as flood risk, will be managed to ensure that development does not result in unacceptable consequences to its users, the wider community, and the environment. The proposal would also be contrary to the advice in paragraph 165 of the Framework which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Conclusion

18. There is a lack of substantive information to support the appeal proposal. The harm that I have identified to ecology and biodiversity, highway safety and flood risk are such that the proposed development should be considered as in conflict with the development plan when taken as a whole. Material considerations do not indicate to me a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

C McDonagh

INSPECTOR